

Appl. No. 10/797,294  
Amtd. Dated July 21, 2008  
Reply to Office Action of March 19, 2008

• • • R E M A R K S / A R G U M E N T S • • •

The Official Action of March 19, 2008 has been thoroughly studied. Accordingly, the following remarks are believed to be sufficient to place the application into condition for allowance.

By the present amendment independent claim 11 has been changed to recite that the head restraint support has a first elongate portion and said second curved arcuate portion that together are generally J-shaped. Independent claim 11 has further been changed to recite a latch that extends from the second curved arcuate portion of the first head restraint support which latch is engaged by an end surface of the rotational cam and thereby locked against pivotal movement and an unlatched position in which the latch can pivot immediately over the cam.

New claim 33 has been added which recites that the first head restraint support includes a pivot hole having a center about which the first head restraint support pivots, the pivot hole being provided near a free end of the curved arcuate portion.

Support for these changes to the claims can readily be found in the drawings, for example Fig. 2 which is reproduced below.

Also by the present amendment, claims 22, 29 and 30 have been rewritten in independent form and claims 31 and 32 have been canceled.

Entry of the changes to the claims is respectfully requested.

Claims 11-18, 20-30 and 33 are pending in this application.

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Claims 11-13 and 29 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S.

Patent No. 5,681,079 to Robinson

Claims 14-18, 20, 21 and 30-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Robinson in view of U.S. Patent Application Publication No. 2005/01067874 to Kunzath et al.

On page 3 of the Office Action the Examiner has indicated that claims 22-28 would be allowable if rewritten in independent form.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding prior art rejections should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

Initially, it is submitted that claim 22 which has been rewritten in independent form is allowable over the prior art as indicated by the Examiner on page 3 of the Office Action, together with claims 23-28 which depend therefrom

The Examiner has relied upon Robinson as showing:

...the use of a first and second head restraint support (48) having a first elongated portion (54) for receiving a bun (16) thereon; a bracket (46); and a latch mechanism (32), the latch mechanism including a rotatable cam (72) that can be selectively rotated independently of the first head restraint support between a latch position in which a second portion (70) of the first head restraint support is engaged by an end surface of the rotational cam and thereby, locked against pivotal movement and an unlatched position in which the second portion of the first head restraint support can pivot immediately over the cam (see figs. 3 and 4).

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Robinson uses a pivot plate that is described at column 5, lines 20-26 as:

Pivot plate 48 includes an upper flange portion 54 through which fasteners 56 are driven, and a lower portion 58 through which hinge pin 52 extends. Lower portion 58 includes a general arcuate peripheral guide surface 60 having a first stop shoulder 62 at its end adjacent to upper flange portion 54 and a second stop shoulder 64 located at its opposite end.

In contrast to Robinson, applicant's invention includes a unique J-shaped head restraint support that has an upper elongated portion and a lower curved arcuate portion as shown in FIG. 2:

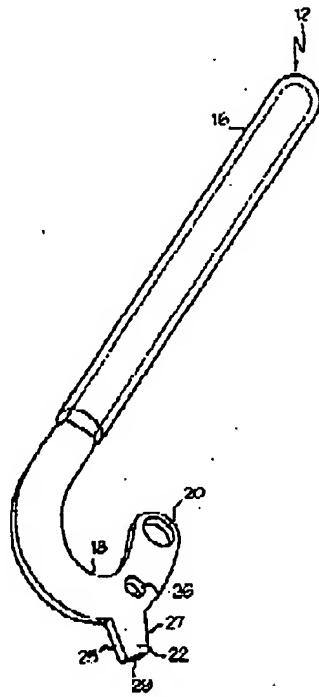


FIG. 2

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This J-shaped configuration includes a pivot hole 20 near one end of the curved arcuate portion of the head restraint support so that the axis of the upper elongated portion is not radially aligned with the pivot hole 20. This configuration provides more clearance during pivotal movement and allows the supporting assembly of the head restraint assembly to be mounted more forward in the back seat of a vehicle as compared to Robinson as shown in Fig. 3.

In contrast to applicant's configuration, the axis of the upper flange portion 54 of Robinson is substantially radially aligned with hinge pin 52. This limits the position at which the assembly can be installed in a seat back and limits clearance during pivotal movement.

It is submitted that Robinson does not anticipate nor render obvious the limitations of applicant's independent claim 11 under 35 U.S.C. §102.

The Examiner has relied upon Kamrath et al. as showing:

...the conventional use of a rotational bar (36) through first and second head restraint supports (31) which have a cylindrically shaped geometry.

In combining the teachings of Robinson and Kamrath et al. the Examiner takes the position

that:

It would have been obvious...to modify the head restraint of Robinson with a rotational bar and cylindrically shaped head restraint support, as taught by Kamrath et al. in order to better secure and stabilize the bun during rotational movement of the first and second head restraint supports.

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It is submitted that the pivot plate 48 of Robinson cannot be replaced with the cylindrically shaped head restraint supports of Kamrath et al. in any "obvious" manner. This is because the pivot plate 48 of Robinson is uniquely shaped and configured to include "an upper flange portion 54 through which fasteners 56 are driven, and a lower portion 58 through which hinge pin 52 extends."

Moreover the "[l]ower portion 58 includes a general arcuate peripheral guide surface 60 having a first stop shoulder 62 at its end adjacent to upper flange portion 54 and a second stop shoulder 64 located at its opposite end."

The cylindrically shaped head restraint supports of Kamrath et al. are simple tubular members that have their ends bent and which are fixed to rotational bracket 32.

There is no provision for the "head prongs 31" of Kamrath et al. to include the first stop shoulder 62 or the second stop shoulder 64 required by Robinson.

Accordingly, modifying the head restraint of Robinson to have the cylindrically shaped head restraint support of Kamrath et al. as the Examiner suggests would destroy the teachings of Robinson.

In this regard, it is noted that the first stop shoulder 62 and the second stop shoulder 64 of Robinson are integral elements of the pivot plate 48, as is the locking detent 68 and projection 66. The tubular members of Kamrath et al. cannot support the first and second stop shoulders and detent and projection required by Robinson.

It is therefore submitted that the combination of Robinson and Kamrath et al. is not actually obvious to those skilled in the art and if the combination were made the result would destroy the teachings of Robinson.

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Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejections of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension.

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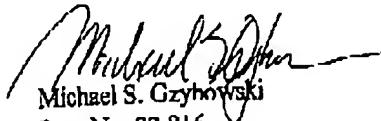
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of time fees, in Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,

  
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